

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1857-02  
Bill No.: Perfected SCS for SB 505  
Subject: Employees - Employers; Department of Labor and Industrial Relations; Workers' Compensation  
Type: Original  
Date: April 24, 2001

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Workers' Compensation Fund	\$0 to (Less than \$100,000)	\$0 to (Less than \$100,000)	\$0 to (Less than \$100,000)
Second Injury Fund	\$0 to (Less than \$100,000)	\$0 to (Less than \$100,000)	\$0 to (Less than \$100,000)
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>\$0 to (Less than \$200,000)</b>	<b>\$0 to (Less than \$200,000)</b>	<b>\$0 to (Less than \$200,000)</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 5 pages.

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## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of Administration - Divisions of Budget and Planning and General Services**, and the **Department of Economic Development - Division of Motor Carrier and Railroad Safety** assume the proposed legislation would have no fiscal impact on their agency.

Officials from the **Department of Labor and Industrial Relations (DOL) - Division of Workers' Compensation** assume this proposal places the burden on the lessor or contractor who leases or contracts motor vehicles from the owner-operator to carry workers' compensation insurance. DOL states that alternatively, this proposal requires the lessor or contractor to obtain workers' compensation insurance on an owner-operator who is not specifically excluded on the grounds that the employee of an owner-operator is an employer pursuant to section 287.030 RSMo. Therefore, DOL assumes that the proposed legislation would have no fiscal impact on their agency.

Officials from the **Department of Insurance (INS)** state that currently independent owner-operators are excluded under the workers' compensation law; however, drivers of trucking operations are still considered employees. This proposal changes the definition of owner-operator to define owner-operator employed by a partnership, corporation or LLC but shall not include an employee which is an employer under 287.030. INS anticipates that this proposal would reduce the number of employees on which premium is charged for workers compensation. Therefore, INS assumes less premiums will be paid, and as a result, less premium taxes on workers compensation would be collected. INS assumes this amount is unknown.

Taking into consideration two classifications of truckers, based on 1997 payroll information and a high risk rate, the INS, in reference to SB 505, provided **Oversight** with the impact to the Workers' Compensation Fund as \$1,917,263. The numbers used in the computation of this figure are based on calendar year information, so Oversight assumes the same would hold true on a fiscal year basis. However, in reference to this SCS, Oversight used the 1996 U.S. Census Bureau, *County Business Patterns*, annual, and used the Transportation classification statistics and notes that in this transportation classification the percentage of employees in the one to four employees category as compared to total employees in this classification is 4.33%. Using this percentage times the \$1,917,263 noted earlier in this paragraph, Oversight assumes an impact of approximately \$83,017; therefore, Oversight assumes a fiscal impact of less than (\$100,000) to the Workers' Compensation Fund. However, if the Workers' Compensation Fund would receive 0% of the net premiums, the impact to the fund would be \$0.

ASSUMPTION (continued)

Additionally, **Oversight** assumes that the Second Injury Fund could also result in a loss and Oversight assumes such loss to be less than \$100,000 per fiscal year. Oversight also notes, through speaking with DOL officials (in reference to SB 505), that this fund could also incur unknown savings as fewer people would be eligible to make a claim under this fund.

*Section 287.210 - Workers' Compensation - Physical Examination of Employee*

Officials from the **Departments of Insurance, Labor and Industrial Relations** and **Transportation** assume the proposed legislation would have no fiscal impact on their agencies.

Officials from the **Attorney General's Office** (AGO) estimate their agency would request additional staff (five assistant attorney generals, one paralegal and two secretaries). AGO assumes that the proposal would mainly affect partial disability claims filed against the Second Injury Fund (SIF). If SIF cases were allowed to be submitted on medical reports, cases previously settled or dismissed would be taken to hearing resulting in an additional 800 to 1,200 cases. Along with this increase, appeals would increase. In order to adequately defend these cases, SIF attorneys would have to cross-examine the claimant's doctor. Costs are estimated at \$381,415 in FY02; \$384,752 in FY03; and \$394,867 in FY04.

Officials from the AGO also estimated a loss to the Second Injury Fund of \$5.0 million annually, due to an increase in claims.

Officials from the **Office of State Treasurer** deferred to the response prepared by the AGO.

**Based on an Oversight Subcommittee decision on March 30, 1998, the fiscal impact of this section of the proposal is assumed to be zero.**

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
<b>WORKERS' COMPENSATION FUND</b>			
<u>Loss - Reduction of net premium taxes</u>	<u>\$0 to (Less than \$100,000)</u>	<u>\$0 to (Less than \$100,000)</u>	<u>\$0 to (Less than \$100,000)</u>

**SECOND INJURY FUND**

KLR:LR:OD (12/00)

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
<u>Loss - Reduction of surcharges</u>	<u>\$0 to (Less than \$100,000)</u>	<u>\$0 to (Less than \$100,000)</u>	<u>\$0 to (Less than \$100,000)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small businesses could be affected by the provisions of this proposal.

DESCRIPTION

This proposal would expand the type of person in the transportation business that should not be considered an "employee" for purposes of workers' compensation law. Pursuant to this proposal, an "owner-operator" would be a person, partnership, corporation, or limited liability company which has one or more vehicles for hire. Currently, exemption from the classification of "employee" extends only to individuals who are "the owner and operator of a motor vehicle which is leased or contracted with a driver." Where an "owner-operator" would meet the definition of "employer" as set forth in Section 287.030, RSMo, an employee would have a claim against the owner-operator.

This proposal allows the state to request a medical examination of an injured employee in Second Injury claims and modifies the admissibility of medical reports in Second Injury cases.

This proposal allows interest to run 15 days after an award except as otherwise modified upon appeal. This proposal modifies the statute of limitations on second injury fund claims.

This proposal forbids the Governor from directing any person to serve in a temporary capacity as a member of the Labor and Industrial Relations Commission.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

KLR:LR:OD (12/00)

Office of Administration

- Division of Budget and Planning
- Division of General Services

Department of Economic Development - Division of Motor Carrier and Railroad Safety

Department of Insurance

Department of Labor and Industrial Relations - Division of Workers' Compensation

Office of the Attorney General

Department of Transportation

State Treasurer's Office



Jeanne Jarrett, CPA  
Director

April 24, 2001